

Pro Se (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

District of _____

Division _____

GOVERNMENT
EXHIBIT

1

Case No. 2:17cv 272

(to be filled in by the Clerk's Office)

Wallace Godwin
Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one) ☐ Yes ☐ NoU.S. Federal Government
Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Wallace GodwinStreet Address [REDACTED]City and County Virginia Beach, VAState and Zip Code [REDACTED]Telephone Number [REDACTED]

E-mail Address _____

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se I (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

U.S. Federal Government

Defendant No. 2

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

Defendant No. 3

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

Defendant No. 4

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Controlled Substances Act (CSA) (21 U.S.C. 811)

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) Wallace Godwin, is a citizen of the
State of (name) Virginia.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated
under the laws of the State of (name) _____,
and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s) U.S. Federal Government**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of
the State of (name) _____. Or is a citizen of
(foreign nation) _____.

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b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

\$ 500,000,000

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

non enforcement of CSA 21 U.S.C 811

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

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V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5/19/2017

Signature of Plaintiff

Printed Name of Plaintiff

Wallace Godwin
Wallace Godwin

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address



(1)

Home (/) → / Legal (/legal) → / Legal Information By State & Federal Law (/state_and_federal_law) → / Federal Legal Information (/federal_legal_information)

Federal Marijuana Law

Despite medical cannabis laws in 44 states, cannabis is still illegal under federal law. The federal government regulates drugs through the Controlled Substances Act (CSA) (21 U.S.C. § 811), which does not recognize the difference between medical and recreational use of cannabis. These laws are generally applied only against persons who possess, cultivate, or distribute large quantities of cannabis.

Under federal law, cannabis is treated like every other controlled substance, such as cocaine and heroin. The federal government places every controlled substance in a schedule, in principle according to its relative potential for abuse and medicinal value. Under the CSA, cannabis is classified as a Schedule I drug, which means that the federal government views cannabis as highly addictive and having no medical value. Doctors may not "prescribe" cannabis for medical use under federal law, though they can "recommend" its use under the First Amendment.

Federal cannabis laws are very serious, and punishment for people found guilty is frequently very steep. Federal law still considers cannabis a dangerous illegal drug with no acceptable medicinal value. In several federal cases, judges have ruled that medical issues cannot be used as a defense, though defense attorneys should attempt to raise the issue whenever possible during trial. Federal law applies throughout Washington D.C. and the United States, not just on federal property.

As of 2016, several federal agencies have issued guidelines and other policy memorandums to manage the conflict between federal and state laws as they pertain to medical marijuana. On August 29, 2013 the Department of Justice (DOJ) issued a guidance memo to prosecutors concerning marijuana enforcement under the Controlled Substance Act (CSA) making it clear that prosecuting state legal medical marijuana cases is not a priority. The memo included eight guidelines for prosecutors to use to determine current federal enforcement priorities. Fortunately, most medical cannabis program's regulations require the same guidelines ensuring that any business with a licenses are meeting these requirements as well. These guidelines include:

1. Preventing of distribution of marijuana to minors;
2. Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs or cartels;
3. Preventing the diversion of marijuana from states where it is legal under to state law in some form to other states;
4. Preventing state-authorized marijuana activity from being used as a cover or a pretext to traffic other illegal drugs or other illegal activity;
5. Preventing violence or the use of firearms in cultivation and distribution of marijuana;
6. Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
7. Preventing the growing of marijuana on public lands and the attendant public safety and environment dangers posed by marijuana production on public lands;
8. Preventing marijuana possession or use on federal property.

There are two types of federal sentencing laws: sentencing guidelines, enacted by the United States Sentencing Commission, and mandatory sentencing laws, enacted by Congress. The Sentencing Commission was created in 1987 to combat sentencing disparities across jurisdictions. The current mandatory minimum sentences were enacted in a 1986 drug bill. Federal sentencing guidelines take into account not only the amount of cannabis involved in the arrest but also the past convictions of the accused. Not all cannabis convictions require jail time under federal sentencing guidelines, but all are eligible for imprisonment.

If convicted and sentenced to jail, a minimum of 85% of that sentence must be served. The higher the amount of cannabis, the more likely one is to be sentenced to jail time, as opposed to probation or alternative sentencing. Even for a defendant with multiple prior convictions, being charged with low-level offenses may lead to probation for the entire sentence of one to twelve months, with no jail time required. Possession of over 1 kg of cannabis with no prior convictions carries a sentence of six to

twelve months with a possibility of probation and alternative sentencing. Over 2.5 kg with no criminal record carries a sentence of at least six months in jail; with multiple prior convictions, a sentence might be up to two years to three years in jail with no chance for probation.

In *United States v. Booker* (2005), a Supreme Court decision from January 2005, the court ruled that the federal sentencing guidelines (as outlined above) are advisory and no longer mandatory. In addition to the sentencing guidelines, there are statutory mandatory minimum sentences, which remain in effect after *United States v. Booker* and primarily target offenses involving large amounts of cannabis. There is a five-year mandatory minimum for cultivation of 100 plants or possession of 100kgs, and there is a 10-year mandatory minimum for these offenses if the defendant has a prior felony drug conviction. Cultivation or possession of 1000kg or 1000 plants triggers a 10 year mandatory minimum, with a 20-year mandatory sentence if the defendant has one prior felony drug conviction, and a life sentence with two prior felony drug convictions.

Conflict between State and Federal Law

As of this printing, the federal government claims that marijuana is not medicine and in *Gonzales v. Raich* (2005), the United States Supreme Court held that the federal government has the constitutional authority to prohibit marijuana for all purposes. Thus, federal law enforcement officials may prosecute medical marijuana patients, even if they grow their own medicine and even if they reside in a state where medical marijuana use is protected under state law. The Court indicated that Congress and the Food and Drug Administration should work to resolve this issue.

The Raich decision does not say that the laws of California (or any other medical marijuana state) are unconstitutional; nor does it invalidate them in any way. Also, it does not say that federal officials must prosecute patients. Decisions about prosecution are still left to the discretion of the federal government.

According to a post-Raich statement by California Attorney General Bill Lockyer, the ruling does not overturn California law permitting the use of medical marijuana. Lockyer also underscored the role of local law enforcement in upholding state, not federal, law. A superior court has rejected the County of San Diego's claim in a lawsuit filed against the State that California's medical marijuana laws are preempted by federal law. As of this printing, that case is pending on appeal.

States have recognized marijuana's medical value and have either passed laws through their legislatures or adopted them by initiative. In support of the numerous states that have taken responsibility for the health and welfare of their people, and have implemented medical marijuana laws, ASA is fighting for states' ability and right to pass and enforce their own laws, regardless of federal law.

CJS 2016 Budget Amendment Provides Protection

In 2014 and 2015, Congress called a ceasefire in the federal war on medical cannabis. In the first change in federal law affecting patients since 1970, when it classified cannabis as a dangerous drug with no medical use, Congress approved a budget amendment that prohibits Justice Department funds from being used to prevent states from implementing medical cannabis laws. These restrictions on federal enforcement are part of the 2016 funding bill for the Commerce-Justice-Science (CJS) budgets and expire at the end of the fiscal year, September 30, 2016.

Known as the Rohrabacher-Farr or CJS amendment, it first signed into law on December 16, 2014 and then again on December 18, 2015. The Rohrabacher-Farr amendment doesn't just prevent direct interference with state implementation; it should also end federal medical cannabis raids, arrests, criminal prosecutions, and civil asset forfeiture lawsuits, as well as providing current medical cannabis prisoners with a way to petition for their release.

Similar bipartisan amendments to limit federal enforcement in medical cannabis states have been offered seven times over the past 12 years without success. Over the past few years, ASA has promoted citizen lobbying as part of the annual National Medical Cannabis Unity Conference and Lobby Day in Washington, DC. Hundreds of visits from patients and advocates have helped demonstrate to Members of Congress that medical cannabis is an issue important to their constituents.

Federal Courts uphold the CJS Protections

U.S. v Marin Alliance for Medical Marijuana (Northern District of California)

On October 19th, 2015 Judge Breyer from San Francisco's federal court ruled that the prosecutions of medical cannabis defendants must be consistent with the Rohrabacher-Farr Amendment in a long-standing case with Marin Alliance for Medical Marijuana (MAMM) and its founder Lynette Shaw. Judge Breyer ruled that the Amendment "forbids the Department of Justice from enforcing this injunction against MAMM to the extent that MAMM operates in compliance with state California law." In other words, as long as providers adhere to state law, the Amendment prevents DOJ from shutting down state-legal providers.

While this is a major victory for medical cannabis patients and providers, it is important to note that this case is not binding in other federal jurisdictions, and judges in other jurisdictions could rule otherwise. In early 2015, a federal judge in Washington State refused to dismiss the Kettle Falls Five case when presented with a motion invoking the Amendment. However, the judge in that case had determined that there was a strong likelihood that the defendants had violated state law, and there was not a similar determination made in the MAMM case.

Harborside case

In May 2016 the DOJ dropped its civil forfeiture action against Harborside Health Center in Oakland, CA. The case was brought by the DOJ back in 2011 as part of a federal crackdown against legal state medical cannabis dispensaries. The dropping of the case was at least in part the result of the Rohrabacher-Farr amendment, which prevents the DOJ from interfering with those abiding by their state medical cannabis law.

Since the Harborside was dropped, it does not carry any binding legal precedent. However, the fact that it was dropped strongly suggests that the federal prosecutors thought they would lose the case had it continued in the courts.

U.S. vs. McIntosh (9th Circuit)

The most important case involving the Rohrabacher-Farr amendment took place in the federal 9th Circuit Court. In the August 2016 decision of *U.S. vs. McIntosh* (<https://cdn.ca9.uscourts.gov/datastore/opinions/2016/08/16/15-10117.pdf>), the court held that the Rohrabacher-Farr Amendment prohibits the federal prosecution of conduct that is allowed by the state's medical cannabis law.

In the opinion, Judge Diarmuid F. O'Scannlain wrote:

We therefore conclude that, at a minimum, § 542 prohibits DOJ from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws.

The opinion remanded all of the cases that included in the appellate ruling back to the trial court. If federal prosecutors want to continue pursuing their cases against the defendants, they must prove at an evidentiary hearing that the defendant violated state law.

Federal Agencies Grappling with State Conflict

Today, several federal agencies have issued guidelines and other policy memorandums that are legitimate efforts to manage the emerging issues within medical marijuana. In fact, as of 2016, every federal agency except the Drug Enforcement Administration (DEA) (http://www.safeaccessnow.org/dea_chief_shows_yet_again_he_has_no_clue_about_marijuana), has stopped ignoring medical cannabis. Starting with the 2009 Ogden memo and later the 2013 by Deputy Attorney General James Cole, the Department of Justice has made clear that state legal medical marijuana is not a priority (<http://blog.simplejustice.us/2013/08/30/the-cole-memo-2-0-this-changes-everything/>). In 2010, the VA updated their policies (<http://www.nytimes.com/2010/07/24/health/policy/24veterans.html>) to no longer deny veterans' access to medical services due to their participation in a state-legal medical marijuana program. In 2014, the Treasury Department issued guidelines to facilitate banking in the marijuana industry, (http://www.nytimes.com/2014/02/15/us/us-issues-marijuana-guidelines-for-banks.html?_r=0)

Information being disseminated to the public from federal agencies has also improved, including the National Institute of Drug Abuse (NIDA) DrugFacts: Is Marijuana Medicine? (<http://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>), the Food and Drug Administration's FDA and Marijuana: Questions and Answers (<http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm421168.htm>) and the National Cancer Institute's Cannabis and Cannabinoids (<http://www.cancer.gov/about-cancer/treatment/cam/hp/cannabis-pdq#section/all>). Research barriers are also beginning to fall, with the Office of National Drug Control Policy lifting the Public Health Service (PHS) review (<http://www.usnews.com/news/articles/2015/06/22/major-pot-research-barrier-goes-up-in-smoke>), a hurdle only cannabis researchers had to clear in 2015. Likewise, NIDA now supports letting other research centers grow research cannabis, ending the NIDA monopoly.

Know your facts! I am a natural born conservative. Read the Federal law on marijuana. President Nixon ignored the Federal law on marijuana. Marijuana has been altering the minds of the American people since the early 60's. Check my facts! This is the FACT!

Wallace Godwin

[REDACTED]

Virginia Beach, VA

[REDACTED]

[REDACTED]

**cell
home**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

DIVISION

Wallace Godwin

Plaintiff(s),

v.

Civil Action Number: 2:17cv272

US Federal Government

Defendant(s).

LOCAL RULE 83.1(M) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared, or assisted in the preparation of Complaint for a Civil Case
(Title of Document)

Wallace Godwin

Name of Pro Se Party (Print or Type)

Wallace Godwin

Signature of Pro Se Party

Executed on: 6-19-17 (Date)

OR

The following attorney(s) prepared or assisted me in preparation of _____
(Title of Document)

(Name of Attorney)

(Address of Attorney)

(Telephone Number of Attorney)

Prepared, or assisted in the preparation of, this document

(Name of Pro Se Party (Print or Type)

Signature of Pro Se Party

Executed on: _____ (Date)